

REMARKS

Claims 19-21 and 24 are the pending claims in the application. Claim 21 has been canceled and claims 25-30 have been added. Claims 19, 20 and 24 stand objected to as being dependent upon a withdrawn claim. Claims 19, 20 and 24 also stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mantelle (U.S. Patent No. 5,446,070) in view of Pomerantz (U.S. Patent No. 5,081,157).

Remarks Directed to Objection of Claims 19, 20 and 24 as Being Dependent Upon a Withdrawn Claim

Claims 19, 20 and 24 have been amended such that each claim is in independent form. As such, the claims no longer depend upon a withdrawn claim and are believed to be in proper form.

Remarks Directed to Rejection of Claims 19, 20 and 24 under 35 U.S.C. §103(a) as Being Unpatentable over Mantelle in View of Pomerantz

The Office Action mailed on December 15, 2006 cites Mantelle for teaching a pharmaceutical formulation for topical administration of an anesthetic agent to ameliorate pain. Specifically, in Example 25 the ointment composition includes the solvent propylene glycol, glycerin, lidocaine base and hydroxypropyl cellulose (column 20).

Pomerantz is cited as teaching a topical composition comprising a medicinal compound such as lidocaine, hydroxypropyl cellulose (HPC), a volatile solvent.

Claims 19, 20 and 24 have been amended such that the anhydrous gel anesthetic formulation of claim 19, the therapeutically effective amount of an anesthetic formulation of claim 20 and the topical anesthetic of claim 24 use the transitional phrase "consisting of." The transitional phrase "consisting of" closes the claim to the inclusion of materials other than those recited in the claim. Stated differently, the transitional phrase "consisting of" excludes any element, step, or ingredient not specified in the claim.

Turning to claim 19, this claim excludes a salt of an anesthetic base, a binder, an anesthetic base in the form of prilocaine, a drug in the form of miconazole nitrate, a corticosteroid, an adrenocorticosteroid, or a keratolytic agent. In contrast, the teachings of the Mantelle patent provide examples wherein one or more of the above stated elements is included. For example, Examples 1-11 and 25-28 of Mantelle include a salt; Examples 12-21, 23, 25, 29, 30 and 36 include a binder; claim 22 includes an anesthetic base in the form of prilocaine; claim 24 includes a drug in the form of miconazole nitrate and a thickener; Examples 30, 31 and 34 include corticosteroid; Examples 32 and 33 include adrenocorticosteroid; and Example 35 includes a keratolytic agent.

As such, claims 19, 20 and 24 and any claims depending therefrom are not obvious from Mantelle in view of Pomerantz. Based on the above remarks, Applicant submits that all the pending claims are in allowable form. Reconsideration and withdrawal of the rejection of these claims under 35 U.S.C. §103(a) is solicited.

Summary

Claims 19, 20 and 24-30 are the claims pending in this application. The pending claims are believed to be in allowable form and directed to patentable subject matter. Reconsideration and allowance of the pending claims is solicited. Should the Examiner find to the contrary, she is respectfully requested to contact the undersigned attorney in charge of this application to resolve any remaining issues.

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Respectfully submitted,

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